

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

69 BLOOMINGDALE, LLC,

Plaintiff,

-against-

CORAL GRAPHICS, INC.; F.C. PROPERTIES INC.,

Defendant(s).

**AFFIDAVIT IN SUPPORT
OF DEFAULT JUDGMENT**

Civil Action No. 2:20-CV-02613
(RPK) (SIL)

X

State of New York)
 :ss
County of Nassau)

I, Arthur Sanders, affirm under the penalty of perjury as follows:

1. I am President of 69 Bloomingdale/120 Andrews Associates General Corp., General Partner of 69 Bloomingdale/120 Andrews Associates, LP, Member of Plaintiff, 69 Bloomingdale, LLC and I am fully familiar with the facts and circumstances of the contamination of the property located at 69-83 Bloomingdale Road in the Town of Hicksville ("Bloomingdale Property").
2. 69 Bloomingdale, L.L.C. is a New York Limited Liability Company formed under the laws of the State of New York with a principle place of business located in Nassau County, New York.
3. 69 Bloomingdale, LLC is the owner of the Bloomingdale Property.
4. Contamination has migrated from the property owned by F.C. Properties, Inc and the facility operated by Coral Graphics, Inc. at 840 Broadway in the Town of Hicksville, New York ("Coral Graphics Property") onto the Bloomingdale Property.

5. The New York State Department of Environmental Conservation (“NYSDEC”) has classified the Coral Graphics Property as a New York State Superfund Site and the Defendants have been voluntarily cleaning up the Coral Graphics Property. See NYSDEC database report at Attachment 1.
6. As a result of the presence of contamination on the Bloomingdale Property that originated from the Coral Graphics Property, NYSDEC classified the Bloomingdale Property as a “Potential Hazardous Waste Disposal Site”, on or about August 9, 2019.
7. 69 Bloomingdale, LLC has voluntarily agreed to NYSDEC demands to investigate the contamination and to conduct other site activity as a result of the contamination on the Bloomingdale Property (“Environmental Costs”).
8. As of December 16, 2020, 69 Bloomingdale, LLC has incurred and paid \$156,583.45 in Environmental Costs. See itemized summary of Environmental Costs at Attachment 2.
9. For purposes not related to this litigation, Rogers and Taylor Appraisers, Inc. “RTA” was retained to do a valuation appraisal of the Bloomingdale Property. On November 14, 2019, John Fitzgerald and James G. Taylor of RTA, both State Certified Real Estate Appraisers and Members of the Appraisal Institute opined that the unimpaired value of the Bloomingdale Property was \$6,200,000 (“Unimpaired Value”). At the time this appraisal was completed RTA was not aware of the NYSDEC listing of the property as a hazardous waste site. A copy of the November 14, 2019 RTA appraisal is attached hereto as Attachment 3.
10. Following November 14, 2019, RTA was made aware of the NYSDEC letter classifying the Bloomingdale Property and a potential hazardous waste site. Based

upon this material change, RTA undertook a revaluation of the Bloomingdale Property.

On November 22, 2019, John Fitzgerald and James G. Taylor of RTA, both opined that the impaired value of the Bloomingdale Property was \$2,300,000 ("Impaired Value").

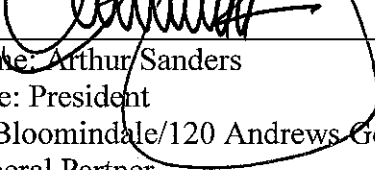
A copy of the November 22, 2019 RTA appraisal is attached hereto as Attachment 4.

11. The Impaired Value was calculated by RTA by reducing the Unimpaired Value by the projected remedial costs for the Bloomingdale Property and reducing the value by 15% for the stigma of being classified as a potential hazardous waste site.
12. According to the RTA appraisals, the total lost value of the Bloomingdale Property by subtracting the Impaired Value from the Unimpaired Value is \$3,850,000.
13. The sum certain for damages suffered by 69 Bloomingdale, LLC is \$156,583.45 for Environmental Costs and \$3,850,000 for diminished value of the Bloomingdale Property. Total sum certain damages of \$3,906,583.45 have been incurred by Plaintiff.
14. It is respectfully submitted that a judgment in the amount of \$3,906,583.45, plus statutory interest and costs, be entered by the Court against the Defendant(s).

Dated: December 21, 2020

69 BLOOMINGDALE, LLC

By: 69 Bloomingdale/120 Andrews Associates, L.P.
Member

By: 
Name: Arthur Sanders
Title: President
69 Bloomingdale/120 Andrews General Corp.
General Partner

Sworn to before me this 21st day
of December 2020


Notary Public

